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SEP 22 1998

CONCORD, N.H.

Mr. Adelard E. Cote  
Labor Commissioner  
15 Pleasant Street  
Concord, New Hampshire

Dear Sir:

You have requested the opinion of this office relative to whether payments for compensation on account of an accident, not paid prior to the death of the injured employee, should be paid after his death and if so to whom.

While there have been no cases in this State that I am familiar with, the general law seems to be that once compensation agreements have been entered into the injured employee or his estate have a claim for all sums due up to the time of the employee's death. While the recipient of installment payments does not ordinarily own the unpaid balance of the award so as to entitle his heirs as such to any interest in it, the unpaid installments due at the time of death are considered to be a part of his estate and should be administered as such. Therefore, these payments should be made to the executor or administrator of his estate.

You have also requested our opinion relative to whether compensation payments should be made to the estate of an injured employee who dies prior to the execution of compensation agreements. It is my suggestion that the administrator or executor of the estate of the deceased employee should file a claim for compensation which you then may consider. Until such a claim is filed it would appear to me that there is no necessity for a search of the law to answer this question.

It should be noted that in both of the above cases the injured employee died from causes other than the accident for which compensation payments were made or for which compensation payments are claimed.

Very truly yours,

Arthur E. Dean, Jr.  
Assistant Attorney General

AEB, Jr/aml